



2002 Legislative Summary

During the second year of the 2001–2002 Legislative Session, the Legislature and Governor enacted over 150 bills that affect the courts or are of general interest to the legal community. Brief descriptions of these measures follow, arranged according to subject matter. Designators indicate whether the measure is of primary interest to judges, court administrators, and/or practitioners in trial courts (T), appellate courts (A), or both.

The effective date of legislation is January 1, 2003, unless otherwise noted. Urgency measures normally take effect upon enactment, and some measures have delayed operative dates. Those dates are included where applicable.

The bill descriptions are intended to serve only as a guide to identifying bills of interest; they are not a complete statement of statutory changes. Code section references are to the sections most directly affected by the bill; not all sections are cited.

Until the annual pocket parts are issued, bill texts can be examined in their chaptered form in *West’s California Legislative Service* or *Deering’s Legislative Service*, where they are published by chapter number. In addition, chaptered bills and legislative committee analyses can be accessed on the Internet at www.leginfo.ca.gov/bilinfo.html. Individual chapters may be ordered directly from the Legislative Bill Room, State Capitol, Sacramento, California 95814, 916-445-2323.

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CIVIL LAW AND PROCEDURE

LANDLORD AND TENANT: SECURITY DEPOSIT T

AB 2330, MIGDEN, CH. 1061
CIV 1950.5, 1954

Increases the damages that may be awarded for a bad faith claim or retention by a landlord of a security deposit from \$600 to twice the amount of the security.

LANDLORD AND TENANT: TENANTS’ RIGHTS T

SB 1403, KUEHL, CH. 301
CIV 1946.1, 1947.15, 1954;
CCP 1179; GOV 7060.2

Requires an owner of residential property to give at least 60 days’ notice prior to terminating the tenancy if the tenant has resided on the property for more than one year. Sunsets this provision on January 1, 2006. Permits a court to relieve a tenant against a forfeiture of a lease or rental agreement, as specified, upon its own motion

or pursuant to an application made at any time prior to restoration of the premises to the landlord. Allows oral applications by persons appearing in court without counsel, if the plaintiff is present and has the opportunity to contest that application or has been given ex parte notice.

LANDLORDS: DISCLOSURE OF DEMOLITIONS T

SB 1576, BOWEN, CH. 285
CIV 1940.6

Requires the owner of a residential dwelling unit, or the owner’s agent, who applies to any public agency for a permit to demolish that unit to give written notice of that fact to a prospective tenant prior to entering into or initiating a rental agreement, as specified, and to a current tenant prior to applying for the permit. Requires that the notice include the earliest possible approximate date the owner expects the demolition to occur and the approximate date the owner will terminate the tenancy.

Provides that a court may award a plaintiff a civil penalty not to exceed \$2,500, actual damages, and moving expenses, as specified, if a landlord fails to provide the required notice. Provides also that, in an action brought pursuant to its provisions, the prevailing party is entitled to reasonable attorney’s fees.

FAIR EMPLOYMENT AND HOUSING ACT T

AB 1146, CHAN, CH. 294
GOV 12965

Tolls the time period for suit under the Fair Employment and Housing Act (FEHA) when the Department of Fair Employment and Housing has issued a right-to-sue notice but federal administrative remedies are still available to resolve the complaint. Commences the judicial limitations period on FEHA claims at the same time the cognate federal period commences.

ACKNOWLEDGMENTS

This special edition of *Court News* was prepared by the Administrative Office of the Courts, Office of Governmental Affairs, in cooperation with the Coalition of Trial Court Clerk Associations.

EMINENT DOMAIN PROCEEDINGS

T
AB 1770, PAPAN, CH. 295
CCP 1250.410, 1255.060
Provides that, in determining litigation expenses to be awarded to the defendant as costs in an eminent domain proceeding, the court shall consider the reasonableness of any prejudgment deposit made by the plaintiff to cover probable compensation to the defendant. Provides that, if an appraiser places one value on the property for prejudgment deposit purposes and swears to a different amount at trial, the appraiser may be questioned about the discrepancy.

CHILDHOOD SEXUAL ABUSE: STATUTE OF LIMITATIONS

T
SB 1779, BURTON, CH. 149
CCP 340.1
Provides that the extended statute of limitations in childhood sexual abuse civil cases against a third party who is not the perpetrator of the sexual abuse extends beyond age 26 of the victim when the third party knew, had reason to know, or was otherwise on notice of any unlawful sexual contact by an employee, volunteer, representative, or agent for unlawful sexual conduct and failed to take reasonable steps to avoid future acts of unlawful sexual conduct by that employee or agent.

To preserve a claim in that event, a suit must be filed within three years from the date the victim discovers or reasonably should have discovered that the psychological injury or illness occurring after age 18 was caused by the childhood abuse. Applies retroactively and permits victims of childhood sexual abuse to bring an action against a third party within one year, as provided above—when that claim otherwise would be barred solely because the statute of limitations has expired, and a cause of action is commenced within one year of January 1, 2003. This revival of claims would not apply to any claim litigated to finality on the merits.

BRACERO WORKERS: STATUTE OF LIMITATIONS

T
AB 1913, FIREBAUGH, CH. 1070
CCP 354.7
URGENCY, EFFECTIVE SEPTEMBER 29, 2002
Provides that a bracero or his or her heirs may bring an action relative to a claim arising out of a failure to pay savings fund amounts deducted from bracero wages between 1942 and 1950. Specifies that such an action shall not be dismissed

for failure to comply with the otherwise applicable statute of limitations, provided the action is filed on or before December 31, 2005.

HOLOCAUST-ERA ARTWORK: EXTENDED STATUTE OF LIMITATIONS

T
AB 1758, NAKANO, CH. 332
CCP 354.3
Authorizes any owner, or heir or beneficiary of an owner, of Holocaust-era artwork to bring an action in superior court to recover that artwork from any museum or gallery. Provides that any action brought under the bill may not be dismissed for failure to comply with the applicable statute of limitations, provided the action is commenced on or before December 31, 2010.

CIVIL RIGHTS: APPEALS

A
AB 2524, GOLDBERG, CH. 244
CIV 51.1, 55.2; GOV 4461; H&S 19954.5, 19959.5
Requires any party who has filed an appeal involving specified civil rights actions to serve a copy of the party's brief or petition on the state Solicitor General at the Office of the Attorney General. Provides that no brief in these matters may be accepted for filing unless the proof of service shows service on the state Solicitor General. Specifies that any party failing to comply with the preceding requirement must be given a reasonable opportunity to remedy the failure before the court imposes any sanction, and in that instance the court must allow the Attorney General reasonable time to file a brief in the matter.

WATER RIGHTS: JUDICIAL REVIEW

T
AB 2267, KELLEY, CH. 652
VARIOUS WAT SECTIONS
Makes changes to the enforcement authority of the state Water Resources Control Board. Authorizes the court to impose civil liability for failure to comply with various sections of the Water Code.

APPELLATE REVIEW: JUDICIAL DISCRETION

A,T
AB 2865, KORETZ, CH. 708
CCP 166.1
Provides that a trial judge may, upon the written request of any party or his or her counsel, or at his or her own discretion, indicate in any interlocutory order that the judge believes there is a controlling question of law in regard to which there are substantial grounds for a difference of opinion, appellate resolution of which may materially advance the conclusion of the litigation. Provides that there would be no grounds for

a writ or an appeal from the decision of the trial judge in this regard.

GENDER-RELATED VIOLENCE

T
AB 1928, JACKSON, CH. 842
CIV 52.4
Creates a new civil cause of action for victims of gender violence and sets forth available damages in such actions. Requires that action be commenced within a specified time period. Specifies that an employer is not liable unless the employer personally committed an act of gender violence.

IMMIGRATION CONSULTANTS

T
AB 1999, CORREA AND MALDONADO, CH. 705
B&P 22445, 22446.5, 22447
Expands existing law to authorize the Attorney General, district attorney, or city attorney to seek civil penalties not exceeding \$100,000 against persons who violate the Immigration Consultants Act. Authorizes the court to consider the relevant circumstances in assessing the civil penalties.

MOBILEHOME PARKS: NUISANCE ACTIONS

T
AB 2382, CORBETT, CH. 141
CIV 798.87
Permits a nuisance action, as well as an action to abate any nuisance, to be brought by the district attorney or county counsel of the jurisdiction in which the mobilehome park or the greater portion of the park is located; the city attorney or city prosecutor, if the park is located within the jurisdiction of the city; or the Attorney General.

SERVICE OF PROCESS

T
AB 2493, ROBERT PACHECO, CH. 197
B&P 22353; CCP 415.50, 699.080, 706.108
Prohibits a court, when considering service by publication, from conducting a search of public databases that restrict access to residential records, including Department of Motor Vehicles records. Permits a registered process server to levy more than once under a valid writ of execution. Makes technical changes governing registration of legal document assistants, unlawful detainer assistants, and process servers.

SMALL CLAIMS COURT: JURISDICTION

T
AB 2949, WAYNE, CH. 247
CCP 116.225
Provides that an agreement entered into or renewed on or after January 1, 2003, establishing a forum outside California for an action that (1) arises from an offer or provision of goods, services, property, or extensions of credit primarily for personal, family, or household purposes and (2) is otherwise within the jurisdiction of a small claims court of this state is contrary to public policy and is void and unenforceable.

COURTS: CIVIL PROCEDURE

T
AB 3027, COMMITTEE ON JUDICIARY, CH. 806
CCP 116.340, 116.370, 116.570, 116.940, 392, 395, 396, 396A, 575.2, 631, 1005; GOV 818.9; CIV 1812.10, 2984.4; EVI 1030
Requires parties seeking a jury trial to post an advance deposit of jury fees at the same time. Provides that if more than one party demands a jury, the amount to be paid daily by each party making such a demand shall be determined by stipulation of the parties or by order of the court. Clarifies that the existing requirement for the posting of jury fees and mileage for the "second day's session" refers to the second day of any use of jurors, regardless of whether the jury has been sworn or is in the voir dire stage.

Conforms the service of opposition and reply papers in summary judgment proceedings to existing requirements in other motions to ensure timely service. Clarifies that independent contractors providing advice to small claims litigants have the same immunity from liability that is provided to county or court employees and volunteers performing this same function. Extends deadlines for service of a claim and order on a defendant in small claims court. Clarifies procedures for requesting a postponement of small claims court hearings.

Deletes obsolete provisions regarding the transfer of cases between a municipal court and a superior court. Requires notice and an opportunity to be heard for parties facing penalties for failure to comply with local court rules. Makes technical corrections to the oath statute. Updates the clergy-penitent privilege statutes with gender-neutral language.

LEAD ABATEMENT: PENALTY ASSESSMENTS

T
SB 460, ORTIZ, CH. 931
CIV 1941.1; H&S 17920.10, 17961, 17980, 105251, 105257
Provides that a building is untenable for purposes of Code of Civil Procedure section 1941 if the building is deemed to have lead hazards. Makes it a crime for a person to engage in specified acts relating to lead-related construction courses and to lead-related construction work, abatement, or lead hazard evaluation. Provides that state penalties assessed per Penal Code section 1464 must be deposited directly into the state General Fund.

SERVICE AND REPAIR TIMES: SMALL CLAIMS DAMAGES

T
SB 500, TORLAKSON, CH. 279
CIV 1722
Among other things, requires retailers and cable TV companies to agree with consumers to a four-hour period within which

a delivery, service, or repair will take place. Increases from \$500 to \$600 the total amount of damages that a small claims court can award for a violation of these provisions.

FIREARMS: LIABILITY A,T
SB 682, PERATA, CH. 913
CIV 1714, 1714.4

Specifies that the design, distribution, or marketing of firearms and ammunition is not exempt from the law providing that each person is responsible for the result of willful acts and for injury to another occasioned by his or her want of ordinary care or skill in the management of his or her person or property.

Specifies the intent of the Legislature to abrogate the holdings in cases such as *Vesely v. Sager* (1971) 5 Cal.3d 153, *Bernhard v. Harrah's Club* (1976) 16 Cal.3d 313, and *Coulter v. Superior Court* (1978) 21 Cal.3d 144. Also repeals existing law, which provides that a firearm or ammunition may not be deemed defective in design for purposes of a products liability action.

CIVIL ACTIONS: LIMITATION OF ACTIONS; SUMMARY JUDGMENT A,T

SB 688, BURTON AND WESSON, CH. 448
CCP 335.1, 340, 340.10, 437C
Extends the statute of limitations in personal injury, wrongful death, and assault and battery actions from one year to two years and applies this change retroactively to victims of the September 11, 2001, terrorist attacks. Increases from 28 days to 75 days before hearing the time required for notice of a motion for summary judgment.

Provides that a party may, at any time on or before the date the opposition is due, make an ex parte motion to continue the hearing on a motion for summary judgment to obtain necessary discovery. Mandates that the court either grant a continuance to permit the discovery to go forward or deny the motion for summary judgment if, after a motion for a continuance to allow specified discovery has been granted, the party seeking summary judgment has unreasonably failed to allow the discovery to be conducted.

Requires a reviewing court to allow the parties to submit supplemental briefs before affirming an order granting summary judgment or summary adjudication on a ground not relied upon by the trial court. Provides that the supplemental briefing may include an argument that additional evidence relating to that ground exists but the party has not had adequate opportunity to present such evidence or to conduct discovery on the issue, and provides that the court may reverse or remand based upon the supplemental briefing to allow the parties to present ad-

ditional evidence or to conduct discovery of the issue.

CONSTRUCTION DEFECTS A,T

SB 800, BURTON AND WESSON, CH. 722
CIV 43.99, 895 ET SEQ.
Provides for detailed and specific liability standards for newly constructed housing. Establishes definitions of construction defects. Creates a new prelitigation process that requires that claimants alleging a defect give builders notice of the claim, following which the builder has an absolute right to repair before the homeowner can sue for a violation of these standards.

If the builder fails to acknowledge the claim within the time specified, elects not to go through the statutory process, fails to request an inspection within the time specified, or declines the offer to repair, or if the repair is inadequate, the homeowner is relieved from any further prelitigation process. Provides third-party inspectors with immunity from liability.

ELECTIONS: RIGHTS OF VOTERS T
SB 976, POLANCO, CH. 129
ELEC 14025 ET SEQ.

Among other things, authorizes a court to impose appropriate remedies, including attorneys' fees and expenses, for violations of the California Voting Rights Act. Permits a member of a protected class to file an action pursuant to this act under specified circumstances.

LIABILITY: PUBLIC SKATEBOARD PARKS T
SB 994, MORROW, CH. 409
H&S 115800

Extends from January 1, 2003, to January 1, 2008, the sunset date of provisions protecting public skateboard parks from liability for injuries sustained by persons age 14 or older. Requires the Judicial Council to submit a report to the Legislature on March 1, 2007, that compiles the annual reports on skateboarding-related incidents and injuries at public skateboard parks.

DEBTOR-AND-CREDITOR RELATIONS T
SB 1322, ACKERMAN, CH. 68
CCP 512.060, 514.020, 515.010, 515.020, 703.580, 703.610

Among other things, provides an alternative procedure for writs of possession if a court finds that a defendant has no interest in the property. Requires, under these circumstances, that a court waive the requirement of the plaintiff's undertaking and that the court determine the amount of the defendant's undertaking, as specified. Requires a levying officer to deliver to the person in possession of the property a copy of the court order for issuance of the writ of possession.

PERSONAL JURISDICTION: GENERAL APPEARANCE T

SB 1325, KUEHL, CH. 69
CCP 418.10
Permits a defendant or cross-defendant to move to quash service of summons and simultaneously answer, demur, or move to strike the complaint or cross-complaint. Specifies circumstances under which a party is not deemed to have made a general appearance for purposes of a court exercising its jurisdiction. Declares the intent of the Legislature, in enacting these provisions, to conform California practice with respect to challenging personal jurisdiction to the practice under rule 12(b) of the Federal Rules of Civil Procedure.

PUBLIC SAFETY OFFICERS: PROCEDURAL BILL OF RIGHTS T
SB 1516, ROMERO, CH. 1156
GOV 3309.5

Provides remedies for specified violations of the Public Safety Officers Procedural Bill of Rights. Permits a court to order specified sanctions if the court finds that a bad-faith or frivolous action or a filing for an improper purpose has been brought pursuant to the act.

ARBITRATION: ETHICS STANDARDS FOR PRIVATE ARBITRATORS T
SB 1707, COMMITTEE ON JUDICIARY, CH. 176
CCP 1281.85
Provides that ethics standards being developed by the Judicial Council for private arbitrators do not apply to an arbitration conducted pursuant to the terms of a public- or private-sector collective bargaining agreement.

ACTIONS AGAINST FELONS T
SB 1887, MCPHERSON, CH. 633
CCP 340.3
URGENCY, EFFECTIVE SEPTEMBER 18, 2002

Responds to *Keenan v. Superior Court* (2002) 27 Cal.4th 413—which invalidated parts of California's Son of Sam laws—by extending the statute of limitations for an action for damages against a defendant based on the defendant's commission of a felony offense for which he or she has been convicted. Allows these actions to be brought within 10 years of the date on which the defendant is discharged from parole if the conviction was for any of certain offenses, such as murder, mayhem, or rape.

COURT DOCUMENTS: PLEADING AND SIGNATURE REQUIREMENTS; SANCTIONS T
SB 2009, MORROW, CH. 491
CCP 128.7

Extends until January 1, 2006, provisions that require that all pleadings filed with a court be signed and that the filing of any paper with a court certify that

certain conditions have been met in order to deter the filing of frivolous actions. Shortens from 30 days to 21 days the period during which a challenged paper may be withdrawn or appropriately corrected without sanction for violation of the above provisions.

COURT FACILITIES AND SECURITY

COURT FACILITIES T
SB 1732, ESCUTIA, CH. 1082
GOV 68073, 69202, 70301, 76000, 76100, 76101, 76223
Establishes a process for the transfer of responsibility for court facilities from counties to the state. Establishes a process for calculating county facility payments to the state for those buildings whose responsibility transfers. Creates a dispute resolution committee to make recommendations to the director of finance. Establishes the Court Facilities Trust Fund and the State Courthouse Construction Fund. Creates a new statewide filing fee surcharge for courthouse construction. Increases the local penalty assessment for courthouse construction funds to \$5.

COURTHOUSE CONSTRUCTION: FILING FEE SURCHARGES T
AB 2022, LONGVILLE, CH. 367
GOV 26826.4, 76236
Extends the San Bernardino \$35 civil filing fee surcharge for courthouse construction to limited civil cases. Makes explicit how the funds may be used.

JUDICIAL SECURITY T
SB 1396, DUNN, CH. 1010
GOV 26603, 69920 ET SEQ., 77212.5
Clarifies allowable and unallowable state costs for court security. Requires each court to prepare and implement a court security plan. Requires each sheriff or marshal to prepare and implement a law enforcement security plan. Requires the Judicial Council to adopt a rule establishing a working group on court security.

COURT OPERATIONS AND STATE BUDGET

BUDGET ACT OF 2002–2003 T
AB 425, OROPEZA, CH. 379
URGENCY, EFFECTIVE SEPTEMBER 5, 2002
Makes appropriations for support of state government for the 2002–2003 fiscal year.

BUDGET TRAILER BILL T
AB 3000, COMMITTEE ON BUDGET, CH. 1124
GOV 68087; PEN 1203.1D, 1465.7 ET SEQ.
URGENCY, EFFECTIVE SEPTEMBER 30, 2002
Requires a 10 percent surcharge on certain civil filing fees. Requires a 20 percent surcharge on all criminal base fines. Provides for a new distribution of criminal fines and a priority of collection. See also AB 3028 (below).

STATE GOVERNMENT: BUDGET T
AB 593, OROPEZA, CH. 1023
URGENCY, EFFECTIVE SEPTEMBER 28, 2002
Authorizes a reduction of up to 5 percent or \$750,000 of the amount appropriated in the Budget Act of 2002. Requires the Governor to issue an executive order to provide state employees in designated units an additional two years of service credit. Requires the director of finance to abolish at least 1,000 positions in state government. Limits total expenditures from the General Fund for the 2003–2004 fiscal year to the amount of total revenues received in that fiscal year.

COURT OPERATIONS T
AB 3028, COMMITTEE ON JUDICIARY, CH. 1008
GOV 7.6; CCP 527.6, 527.7, 527.8; W&I 213.5
Eliminates "loss of hearing" as a basis for general disqualification of a prospective juror. Provides a 2 percent pay differential for a presiding judge in a court with fewer than four judges during the presiding judge's term. Permits a total fee that is subject to a surcharge to be rounded to the nearest whole dollar. Permits courts to hold sessions outside the county, pursuant to rules of court and with the parties' consent.

Authorizes direct payment by the Judicial Council of costs of trial court programs, contracts, and legal and financial services. Clarifies the ability of counsel to receive relevant reports in family law cases. Extends to courts the authority to assess the existing fee for guardianship investigations when the court, rather than the county, undertakes the investigations. Requires that service on wards and dependents not in parental custody be made upon the designated agent for service of process. Changes a statutory due date for a report by the Judicial Council to the Legislature on the use of involuntary references and deletes an incorrect statutory cross-reference related to disqualification of an arbitrator.

TRIAL COURT UNIFICATION CLEANUP T
SB 1316, COMMITTEE ON JUDICIARY, CH. 784
VARIOUS CCP SECTIONS
Makes nonsubstantive revisions and conforming changes to various codes, consistent with trial court unification and state funding of the trial courts.

COURT INTERPRETERS T
SB 371, ESCUTIA, CH. 1047
GOV 71800 ET SEQ.

Establishes the Trial Court Interpreter Employment and Labor Relations Act, which sets forth provisions and procedures to govern the employment and compensation of certified or registered trial court interpreters and court interpreters pro tempore who are employed by the trial courts.

PUBLIC EMPLOYMENT AND CONTRACTING T
SB 1045, POLANCO, CH. 1165
GOV 11139.6, 11139.7, 11139.8

Reaffirms diversity as a public policy goal in public employment and public contracting. Authorizes government agencies to engage in recruitment and outreach programs to increase diversity in public employment and contracting. Requires annual reporting on the participation levels of minority-, woman-, disabled-, and veteran-owned businesses.

DELINQUENT FINES: COLLECTION T
AB 1819, ROBERT PACHECO, CH. 62
PEN 1463.007

Authorizes any county or court to implement a program to collect delinquent fines and forfeitures regardless of the amount of the base fine or forfeiture. Allows the court or county to establish minimum amounts for collection. Further authorizes the court or county to deduct and deposit in the county treasury or the court operations fund the cost of the collection program.

FRANCHISE TAX BOARD: DEBT COLLECTION PROGRAM T
AB 2388, LA SUER, CH. 776
REV 19283

Extends to January 1, 2006, the provisions for referral to the Franchise Tax Board of outstanding amounts imposed by the court.

CRIMINAL LAW AND PROCEDURE

IDENTITY THEFT T
AB 1219, SIMITIAN, CH. 851
PEN 530.6

Establishes procedures by which a victim of identity theft can initiate an investigation by a law enforcement agency or move for an expedited judicial determination that an identity theft has occurred.

IDENTITY THEFT: JURISDICTION T
AB 1773, WAYNE, CH. 908
PEN 786

Creates a procedure for establishing a single-county venue for the prosecution of an identity theft that occurred in more than one county against a single victim. Requires the prosecutor filing the charges to present

evidence that the district attorney in each of the other counties where charges could have been filed has agreed that the matter should proceed in the county of filing.

IDENTITY THEFT T
SB 1254, ALPERT, CH. 254
PEN 530.5, 530.8

Expands the list of items and data constituting "personal identifying information" for purposes of identity theft. Makes it a misdemeanor to acquire, possess, retain, or transfer identifying information with the intent to defraud.

TERRORIST THREATS T
SB 1267, BATTIN, CH. 281
PEN 422.1

Requires a defendant to pay restitution for the costs of response by police, firefighters, or other government entities or by any private entity to a credible threat, a false bomb report, delivery or placement of a false bomb, or a felony false report of any of these acts.

WEAPONS OF MASS DESTRUCTION T
AB 1838, HERTZBERG, CH. 606
PEN 189, 667.5, 1192.7, 11417, 11418, 11418.1

URGENCY, EFFECTIVE SEPTEMBER 17, 2002

Defines the use of a weapon of mass destruction (WMD) as a serious and violent felony. Defines murder by use of a WMD as first-degree murder. Expands the definitions concerning weapons of mass destruction to address water and food supplies, and increases penalties for use of a WMD. Expands the crime of possessing restricted biological agents and infectious substances. Expands and clarifies the crime of making a credible threat to use a WMD.

WEAPONS OF MASS DESTRUCTION: JURISDICTION T

AB 2106, BOGH AND ROD PACHECO, CH. 64
PEN 787

URGENCY, EFFECTIVE JUNE 21, 2002

Allows all charged violations relating to weapons of mass destruction that are part of a single scheme or terrorist attack to be tried in one county.

WEAPONS OF MASS DESTRUCTION: DEFINITION T

SB 1287, ALARCON, CH. 611
PEN 11417, 11418.5, 11419
URGENCY, EFFECTIVE SEPTEMBER 19, 2002

Expands the definition of "weapons of mass destruction" to include additional biological agents and an aircraft, vessel, or vehicle used as a weapon. Expands the definition of evidence showing "sustained fear" to include any isolation, quarantine, or decontamination effort.

WIRETAP PROCEDURES T
AB 74, WASHINGTON, CH. 605
PEN 629.50

Extends the sunset of the wiretapping law from January 1,

2003, to January 1, 2008, and expands the availability and reporting requirements of the law. Authorizes the Judicial Council to adopt guidelines for judges to follow in granting an order authorizing a wiretap.

CRIMINAL IDENTIFICATION: SPECIMEN OR SAMPLE COLLECTION: USE OF REASONABLE FORCE T

SB 1242, BRULTE, CH. 632
PEN 298.1

URGENCY, EFFECTIVE SEPTEMBER 18, 2002

Allows law enforcement and correctional personnel to use reasonable force to collect blood specimens, saliva samples, or print impressions for inclusion in the Department of Justice's DNA and Forensic Identification Bank if an individual refuses to provide such specimens, samples, or impressions.

DNA COLLECTION T
AB 2105, LA SUER AND DICKERSON, CH. 160
PEN 296

URGENCY, EFFECTIVE JULY 12, 2002

Adds persons convicted of terrorist activity in violation of the "weapons of mass destruction" provisions to those offenders who are required to provide DNA samples for inclusion in the state DNA database.

SEXUAL OFFENDERS: HIV AND AIDS TESTS T

AB 2794, REYES, CH. 831

PEN 1202.1, 1524.1

Expands the list of sex crimes that require or authorize a court-ordered blood test for evidence of the AIDS virus, and authorizes the court to order saliva tests for this purpose. Authorizes the court to issue a search warrant for the purpose of testing the accuser's saliva with any HIV test.

CRIME: FALSE REPORTS T
SB 2057, O'CONNELL, CH. 521
PEN 148.3

Expands the misdemeanor offense of knowingly making a false emergency report to public officials that "results in a response by public officials in an emergency vehicle" to include a false report that results in a response by public officials in an emergency aircraft or vessel. Requires that the felony offense of knowingly making a false emergency report to public officials that "results in great bodily injury or death" include the element of knowledge that the false report is likely to cause great bodily injury or death.

HATE CRIMES: GOOD CAUSE FOR CONTINUANCE T

AB 2653, CHU, CH. 788
PEN 1050

Allows the court to continue a hate crime trial or hearing date once for up to 10 court days if the prosecutor assigned has another trial or hearing in progress. Removes provisions permitting trial courts to adopt rules re-

garding the method of service when there is a schedule conflict.

ETCHING CREAM T
AB 1344, COX, CH. 523
PEN 594.1

Makes it a misdemeanor for a minor to purchase or possess etching cream for the purpose of defacing property. Makes it a misdemeanor for a person other than a supervising parent, an instructor, or an employer to sell or furnish etching cream to a minor.

SMOKING: PLAYGROUNDS T
AB 1867, VARGAS, CH. 527
H&S 104495

Expands the area where smoking and disposal of tobacco-related waste are prohibited to within 25 feet of a playground or a "tot lot" sandbox area.

CONTROLLED SUBSTANCES: NUISANCE ABATEMENT ACTIONS T

AB 1868, KORETZ, CH. 1057
H&S 11571, 11573, 11573.5, 11581; PEN 11226, 11227, 11230

Among other things, allows a court in a controlled substances nuisance abatement action to order the person owning or controlling the property to reside on the property until the nuisance is abated, and requires a court issuing such an order to specify the number of hours per day or per week the subject of the order must be physically present on the property and to consider the nature and severity of the nuisance in making that determination.

Provides that a court may issue a temporary restraining order or injunction enjoining subsequent owners, commercial lessees, or agents who acquire the building where the narcotics, gambling, or prostitution nuisance exists to notify any prospective purchaser, commercial lessee, or other successor in interest of the existence of the order or injunction and of its application to successors in interest, prior to entering into any agreement to sell or lease the property. Permits the same civil penalty (up to \$25,000) to be assessed in a prostitution abatement action as in a controlled substance abatement action.

Authorizes the county district attorney and the city attorney to maintain an action to abate a gambling or prostitution nuisance.

FORFEITURE OF ASSETS: CRIMINAL GANG ACTIVITY T

AB 1990, LIU, CH. 991
PEN 186.2

Provides that, for purposes of asset forfeiture, a single commission of the offense of participating in a criminal street gang, or a single violation of any section for which punishment is enhanced pursuant to gang provisions, shall be considered a "pattern of criminal profiteering activity." Revises the definition of a "pattern of criminal profi-

teering activity” in gang-related cases by deleting the criterion of proving at least two incidents of criminal profiteering.

CRIMES: BREAKING-AND-ENTERING TOOLS T
AB 2015, CORBETT, CH. 335
PEN 466

Makes it a misdemeanor to possess ceramic or porcelain spark plug chips or pieces with the intent to commit burglary. States the Legislature’s intent to add only ceramic and porcelain spark plug chips and pieces, not other common objects such as rocks and pieces of metal, to the list of burglary tools.

SENTENCING: ENHANCEMENTS A,T
AB 2173, WAYNE, CH. 126
PEN 1170.1, 12022, 12022.5, 12022.53, 12022.55, 12022.7, 12022.9

Recasts procedures for imposing consecutive sentences under specified circumstances and for certain sentence enhancements involving firearms. Sets forth a general requirement that enhancements must be in addition and consecutive to the offense and that the middle term must be imposed unless there are aggravating or mitigating circumstances. Makes these general provisions applicable to indeterminate and determinate sentences. Eliminates certain provisions and enhancements where other provisions of law provide for duplicate or more severe enhancements.

STUDY: COMMUNITY IMPACT STATEMENTS T
AB 2211, HORTON, CH. 1092
UNCODIFIED

Requires the Judicial Council to study the potential effects, implementation issues, and alternatives to a policy requiring the courts to consider community impact statements prior to judgment and sentencing of misdemeanor crimes. Requires the Judicial Council to report to the Legislature by December 31, 2004.

PRISONERS: TERMINATION OF PARENTAL RIGHTS: HEARING NOTICE T
AB 2336, NEGRETE MCLEOD, CH. 65
PEN 2625

Requires that a court order for a prisoner’s temporary removal from an institution for the purpose of attending a court proceeding concerning termination of the prisoner’s parental rights be transmitted to the institution not less than 15 days before the order is to be executed.

CRIMINAL PUNISHMENT: GROSS VEHICULAR MANSLAUGHTER T
AB 2471, ROBERT PACHECO, CH. 622
PEN 191.5, 3075

Specifies that the basis for imposing on defendant a sentence of 15 years to life for “gross vehicular manslaughter while intoxicated” where the defendant has specified prior convictions shall be pleaded in the infor-

mation and proved to the jury, or to the court in a court trial.

CRIMINAL PROCEDURE T
AB 2499, FROMMER, CH. 828
EVI 1108; PEN 802

Increases the statute of limitations in misdemeanor child-annoying cases to three years in cases involving victims under age 14. Expands the definition of “sexual offense for purposes of the admission of character evidence” to include assault with the intent to commit specified sexual-intent offenses.

CRIMES: ABILITY-TO-PAY HEARINGS T
AB 2526, DICKERSON, CH. 198
PEN 1203.1F

Requires the court, if practicable, to consolidate all of a defendant’s ability-to-pay determination hearings into one proceeding, and authorizes the court to use this determination of ability to pay at the consolidated hearing.

CRIMINAL HISTORY INFORMATION T
SB 900, ORTIZ, CH. 627
PEN 11105, 11105.02, 11105.3, 11105.4; W&I 15660

Consolidates the Department of Justice (DOJ) background check criteria for use by specified agencies, including the courts, in hiring, licensing, or certification. Makes legislative findings and declarations relative to state criminal history information.

Provides that whenever criminal history information is released for the purpose of employment or certification of peace officers, DOJ will disseminate information. Provides that whenever criminal history information is released for the purpose of employment, licensing, or certification at a criminal justice agency, as defined in Penal Code section 13101, DOJ will disseminate information. Provides that whenever criminal history information is released for the purpose of licensing a community care, residential, elder care, or daycare facility, DOJ will disseminate information.

PAYMENT CARD THEFT T
SB 1259, ACKERMAN, CH. 861
PEN 502.6

Makes it a crime to possess or use, knowingly, willfully, and with the intent to defraud, a device designed to scan or re-encode information on the magnetic strip of a payment card.

STALKING T
SB 1320, KUEHL, CH. 832
PEN 646.9

Revises the definition of stalking to delete the criterion that a defendant must have intended to cause fear in a victim, and requires instead that a defendant knew or reasonably should have known that his or her conduct would place the victim in reasonable fear.

HABEAS CORPUS: DISCOVERY A,T
SB 1391, BURTON, CH. 1105
PEN 1054.9, 1473.6

Creates a process to ensure that an attorney representing a de-

fendant in habeas corpus proceedings in a death penalty or life imprisonment case has access to discovery materials in the possession of the prosecution or law enforcement at the time of trial when the trial attorney’s file is unobtainable. Creates a process by which a person convicted of a criminal offense who is no longer in custody or on probation or parole can move to have the judgment vacated when there has been fraud or fraudulent testimony by a government official.

CRIMES: SEX OFFENSES T
SB 1421, ROMERO, CH. 302
PEN 243.4, 261, 286, 288A, 289

Amends specified sex offenses to include circumstances in which the victim is deemed unconscious of the nature of the offensive act because he or she is not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator’s fraudulent representation that the sexual penetration served a professional purpose when it actually served no professional purpose. Expands “sexual battery” to include this same circumstance of fraudulent representation.

CHILD WITNESS: CLOSED-CIRCUIT TELEVISION T
SB 1559, FIGUEROA, CH. 96
PEN 1347

Deletes the sunset date of January 1, 2003, in provisions of law that allow a minor under age 13 to testify by way of closed-circuit television under specified circumstances.

PERSONS COMMITTED TO MEDICAL FACILITIES: MENTAL HEALTH RESTORATION STUDY T
SB 1690, MARGETT, CH. 677
UNCODIFIED
URGENCY, EFFECTIVE SEPTEMBER 18, 2002

Directs the Department of Mental Health, in conjunction with other specified groups, to undertake a study of the current process of judicially restoring to sanity a person found guilty by reason of insanity.

WITNESS PROTECTION PROGRAM T
SB 1739, MORROW, CH. 210
PEN 132.5, 14021, 14022, 14025, 14025.5, 14026.5

Modifies the exclusive authority of the Attorney General over the California Witness Protection Program (CWPP) by allowing local prosecutors to identify program participants. Adds lawful compensation of a witness participating in the CWPP to the list of exceptions to the rule that witnesses may not be compensated for their testimony. Provides immunity to state and local prosecutors, in addition to the Attorney General, for any condition in the witness protection agreement that cannot reasonably be met due to a witness’s committing a crime during participation in the program.

PROBATION COSTS T
AB 2075, CHAVEZ, CH. 919
PEN 1203.1BC

Authorizes the court, upon a determination of ability to pay, to order a defendant convicted of white-collar crime, drug trafficking, or financially motivated gang crimes to pay the reasonable costs of pretrial monitoring services and reports and post-sentence services. Requires county probation departments to consider additional costs in making their recommendations to the court. Sunsets on January 1, 2006.

FIREARMS T
SB 1807, CHESBRO, CH. 833
PEN 12028.5

Expands the circumstances requiring seizures of firearms and weapons in domestic violence cases to include any lawful search. Lowers the standard of proof required for the return of those items, in actions brought by owners, to a preponderance of the evidence. Provides guidelines for the return of a weapon by the court.

HISTORICAL RESOURCES: NATIVE AMERICAN SACRED SITES: VIOLATIONS T

SB 1816, CHESBRO, CH. 1155
PUB RES 5097.995
Establishes the Native American Historic Resource Protection Act. Provides that any person who unlawfully and maliciously excavates, removes, destroys, injures, or defaces certain Native American sites is guilty of a misdemeanor if the act was committed with the specific intent to vandalize, deface, destroy, steal, convert, possess, collect, or sell a Native American art object, inscription, feature, or site and the act occurred on public land or, if on private land, was committed by a person other than the landowner.

HALAL FOOD T
AB 1828, BILL CAMPBELL; CH. 102
PEN 383C

Makes it a misdemeanor for any person who, with the intent to defraud, sells or exposes for sale meat or any food product falsely represented as being halal.

DOMESTIC VIOLENCE; CHILD AND ELDER ABUSE

DOMESTIC VIOLENCE: DEMONSTRATION PROJECTS: BEST PRACTICES T

AB 1909, COHN, CH. 192
FAM 6219
Requires, contingent on the availability of adequate city or county funding, the development of a demonstration project in the Superior Courts of San Diego and Santa Clara Counties to identify best practices in civil, juvenile, and criminal court cases involving domestic

violence. Specifies that the program is also open to other courts that are interested and able to participate. Requires participating courts to report their findings and recommendations to the Judicial Council and the Legislature by May 1, 2004.

DOMESTIC VIOLENCE T
AB 1933, REYES AND COHN, CH. 193

CIV 1708.6
Provides that a person who commits the tort of domestic violence is liable for damages, including but not limited to general, special, and punitive damages. Specifies that the time for commencement of an action under the bill is governed by Code of Civil Procedure section 340.15.

DOMESTIC VIOLENCE: CHILD PROTECTIVE SERVICES: LAW ENFORCEMENT PROTOCOLS T

SB 1745, POLANCO, CH. 187
PEN 11167.5, 13732
Requires child welfare and law enforcement agencies to develop, in collaboration with other groups, protocols for cooperating in their responses to incidents of domestic violence in homes where children reside.

PROTECTIVE ORDERS: SERVICE OF PROCESS T
AB 2030, GOLDBERG, CH. 1009

CCP 527.6; FAM 6222; GOV 6103.2
Requires the sheriff, upon request and at no charge, to serve protective orders, restraining orders, or injunctions when the petition alleges domestic violence, stalking, or sexual assault. Requires the Judicial Council to prepare an application for petitioners who wish to use this service. Prohibits courts from charging a fee for filing a subpoena in connection with a protective order proceeding involving domestic violence, stalking, or sexual assault. Allows the sheriff to submit a billing for these services to the trial court in a manner prescribed by the Judicial Council. Sunsets on January 1, 2007.

VICTIMS OF CRIME: DOMESTIC VIOLENCE T
AB 2462, BATES, CH. 479

GOV 13960
Provides that a child who resides in a home where a crime of domestic violence has occurred may be presumed to have sustained physical injury, regardless of whether the child has witnessed the crime for the purposes of indemnification by the California Victim Compensation and Government Claims Board.

DOMESTIC VIOLENCE: PROTECTIVE ORDER MODIFICATIONS T
AB 2563, VARGAS, CH. 66

PEN 1203.3
Changes the procedures required for a criminal court to modify or terminate a domestic violence protective order that

has been issued as a condition of a defendant's probation. Increases from two to five days the notice given to the prosecutor for modification or termination of protective orders. Requires courts to consider whether there has been any material change in circumstances since the conviction for which the order was issued and to consider specified factors that relate to whether good cause exists for the change.

DOMESTIC VIOLENCE ADVISORY COUNCIL T
SB 1895, ESCUTIA, CH. 510

PEN 13823.16
Requires the Office of Criminal Justice Planning to closely collaborate with an expert advisory council whose membership includes domestic violence victims, providers of battered women's services, law enforcement, and others in administering the Comprehensive Statewide Domestic Violence Program.

PROTECTIVE ORDERS T
SB 1627, KUEHL, CH. 265

FAM 6380, 6385; PEN 1203.097
Requires a law enforcement officer who serves a protective order to submit the proof of service directly into the Domestic Violence Restraining Order System within one business day and transmit the original proof of service form to the issuing court, as specified. Provides that, if the person who served the protective order is not a law enforcement officer and the court is unable to submit the proof of service directly into the Domestic Violence Restraining Order System, the court must transmit a copy of the proof of service to a local law enforcement agency within one business day of receipt, and the local law enforcement agency must submit the proof of service directly into the Domestic Violence Restraining Order System. Requires the Judicial Council to include information on how to return proofs of service, including mailing addresses and fax numbers, in specified materials.

CHILD ABUSE: TASK FORCE T
AB 2442, KEELEY, CH. 1064

PEN 11174.4
Requires the creation of a task force to review the Child Abuse and Neglect Reporting Act and the Child Abuse Central Index and to report to the Attorney General and the Legislature by January 1, 2004. Specifies that the task force will be chaired by an Attorney General designee and include a representative of the Judicial Council.

CHILD ABUSE REPORTING T
AB 2672, LEONARD, CH. 858

PEN 11166
Makes it an infraction, punishable by a fine of up to \$5,000, for supervisors or administrators to knowingly impede or inhibit mandatory child abuse reporting duties.

FIREARMS: DOMESTIC VIOLENCE RESTRAINING ORDER PROTOCOLS T

AB 2695, OROPEZA, CH. 830
PEN 166, 12021, 12028.5, 12028.7

Requires—subject to the availability of resources—the Attorney General, working with the Judicial Council, the California Alliance Against Domestic Violence, prosecutors, law enforcement, and probation and parole representatives, to develop a protocol for the enforcement of domestic violence restraining order-related firearm ownership provisions. Extends from 30 days to 60 days the period in which law enforcement can petition the court to retain a firearm seized as a result of a domestic violence incident, and allows law enforcement to seek an extension to 90 days for good cause.

DOMESTIC VIOLENCE AND FAMILIAL ELDER ADULT ABUSE T
AB 2826, DAUCHER, CH. 534

PEN 836, 13700
Changes the Penal Code definition of domestic violence to delete the requirement that a minor in one of the specified relationships be emancipated, and includes persons over 65 in the definition of domestic violence. Defines elderly parent abuse as abuse committed against a person who is 65 or older by a child or stepchild of the abuser, and requires law enforcement agencies to develop, adopt, and implement written policies and standards for responses to elderly parent abuse calls. Requires that data collection and communication obligations of local agencies regarding domestic violence cases, as specified, also apply to elderly parent abuse cases.

ELDER AND DEPENDENT ADULT ABUSE T
AB 2735, CHAN, CH. 552

W&I 5328, 15633.5, 15763
Expands the category of persons and entities who may receive and disclose information relevant to the known or suspected abuse of an elder or a dependent adult, and the identity of any person reporting it, to include the district attorney, public guardian, and probate court.

ELDER ABUSE: PENALTIES T
AB 2140, SIMITIAN, BATES, AND KELLEY, CH. 369

PEN 243.25, 368
Increases the penalty for simple battery against an elder or a dependent adult from six months to up to one year in county jail. Increases the penalty for criminal negligence involving an elder or a dependent adult in circumstances or conditions not likely to produce great bodily harm or death from six months to up to one year and increases the fine from \$1,000 to up to \$2,000.

EMPLOYEES

WORKERS' COMPENSATION COVERAGE: JUDICIAL BRANCH EMPLOYEES T

SB 2011, BURTON, CH. 905
GOV 68114.10; LAB 3700

Defines the superior courts as "the state" for the purposes of workers' compensation coverage. Establishes the Judicial Branch Workers' Compensation Fund. Revises existing provisions regarding court employees, employee transfers between trial courts and counties, agency shop provisions between a trial court and an employee organization, and trial court procedures concerning employee organizations. Prohibits a trial court from offering to provide employees with benefits of any kind to induce them to withdraw support from an employee organization, and requires a trial court to administer salary pay deductions for certain employees who join an employee organization and to provide to the employee organization certain personal information about employees, except as specified.

SICK LEAVE T
SB 1471, ROMERO, CH. 1107

LAB 234
Provides that if an employer maintains an absence control policy that regards sick leave used to attend to an illness of a child, parent, spouse, or domestic partner as a basis for discipline, discharge, demotion, or suspension, that policy constitutes a per se violation of the law entitling an employee working under the policy to appropriate relief.

DISABILITY COMPENSATION: FAMILY TEMPORARY DISABILITY INSURANCE T
SB 1661, KUEHL, CH. 901

UNEM INS 984, 2601, 2613, 2708
Provides for disability compensation for any employee who is unable to work due to his or her own sickness or injury; the sickness or injury of a family member; or the birth, adoption, or foster care placement of a new child. Establishes a family temporary disability insurance program to provide up to six weeks of wage replacement benefits to workers who take time off work to care for a seriously ill child, spouse, parent, or domestic partner or to bond with a new child. Provides these new benefits through additional employee contributions. Authorizes employers to require that employees utilize up to two weeks of earned but unused vacation leave prior to receiving these additional benefits.

EMPLOYMENT LAWS: ENFORCEMENT ACTIONS T

SB 1818, ROMERO, CH. 1071
CIV 3339; GOV 7285 ET SEQ.; H&S 24000 ET SEQ.

Makes legislative findings and declarations regarding the availability of employment protections, rights, and remedies under state law to individuals regardless of immigration status. Finds and declares that for the purpose of enforcing state labor, employment, civil rights, and employee housing laws, a person's immigration status is irrelevant to the issue of liability, and no inquiry shall be permitted into a person's immigration status except when necessary to comply with federal immigration law.

PUBLIC EMPLOYEES' RETIREMENT: PUBLIC SERVICE T

SB 2094, COMMITTEE ON PUBLIC EMPLOYMENT, CH. 546
GOV 21023.5

Provides that a member of the Public Employees' Retirement System may elect to receive service credit for public service as a volunteer in any AmeriCorps program.

SAFETY IN EMPLOYMENT T
AB 2837, KORETZ, CH. 885

LAB 6423
Prescribes a penalty of up to one year in jail, a fine of up to \$15,000, or both for an employer who knowingly fails to report a death to the Division of Occupational Safety or knowingly induces another to do so. Imposes a fine of up to \$150,000 if the violator is a corporation or a limited liability company.

WORKPLACE PROTECTIONS: VICTIMS OF SEXUAL ASSAULT T
AB 2195, CORBETT, CH. 275

LAB 230, 230.1
Extends existing workplace protections allowing employees who are victims of domestic violence to take time off to attend to issues arising from acts of domestic violence against themselves.

ENFORCEMENT OF EMPLOYEES' ACCESS TO PAYROLL RECORDS T
AB 2412, DIAZ, CH. 933

LAB 226
Requires employers to comply with a request from a current or former employee to inspect or copy records regarding the employee's compensation and deductions, within 21 business days of the request. Provides for a civil penalty against an employer who fails to comply with a request to inspect or copy the records.

PAYROLL DEDUCTIONS: SUPPORT PAYMENTS T
AB 1243, WIGGINS, CH. 1144

GOV 1151.5
Extends to public agencies the authority to establish a payroll deduction program to pay for an employee's child or spousal support, a legal judgment, gar-

nishment or deduction of wages pursuant to a court order, or a loan or obligation to a commercial lender.

DISPLAY OF THE AMERICAN FLAG T
SB 1359, HAYNES, CH. 73
GOV 434.5
Prohibits a local government agency from adopting any policy or regulation that prohibits or restricts an employee of the agency from displaying a flag of the United States or a representation of the flag on his or her person or at his or her workplace.

EVIDENCE

EVIDENCE: ELECTRONIC COMMUNICATION T
AB 1962, HOLLINGSWORTH, CH. 945
EVI 250; GOV 6252
Defines “writing” under the Evidence Code, as well as under the California Public Records Act, to mean “handwriting, type-writing, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and any record thereby created, regardless of the manner in which the record had been stored.” States that the preceding provisions are declarative of existing law.

ADMISSIBILITY OF EVIDENCE T
AB 2033, ROBERT PACHECO, CH. 124
EVI 1550
Makes reproductions of business records made by a “trusted system” admissible as secondary evidence in the same manner as other reproductions are admissible under current law. Becomes operative on the date the Secretary of State adopts standards regarding the storage of documents in electronic media.

SEX CRIMES: EVIDENCE T
AB 2252, COHN, CH. 194
EVI 1108; PEN 784.7
Adds assault with the intent to commit certain sex acts—such as sexual battery, rape, or lewd acts on a child under age 14—to the list of prior sex offenses that may be admitted in a trial to prove the character of the defendant. Eliminates the requirement that, for specified sex crimes, the territorial jurisdiction of the court be wherever the offense occurred.

EVIDENTIARY PRIVILEGES T
SB 2061, MORROW, CH. 72
EVI 917, 952
Deletes the provision in existing law that a communication between a client and his or her lawyer is not deemed lacking in

confidentiality solely because the communication is transmitted by facsimile, cellular telephone, or another electronic means. Provides instead that a communication between persons in a privileged relationship does not lose its privileged character solely because it is communicated by electronic means or because persons involved in the delivery, facilitation, or storage of electronic communication may have access to the contents of the communication.

FAMILY LAW

UNIFORM FAMILY SUPPORT ACT T
AB 2934, WAYNE, CH. 349
FAM 4901, 4903, 4905, 4906, 4909–4913, 4913.5, 4914, 4915, 4917–4922, 4924–4926, 4928, 4930, 4931, 4933, 4935, 4940–4942, 4945, 4946, 4950, 4951, 4953, 4954, 4956, 4959–4961, 4964, 4965, 4970, 4971, 4975
Revises and recasts provisions of the Uniform Family Support Act, including provisions dealing with personal jurisdiction, simultaneous proceedings, jurisdiction to modify support orders, computation of support obligations stated in a foreign currency, determination of paternity, determination of a controlling support order, and an employer’s compliance with two or more income withholding orders. Provides that the bill is not effective until adopted by Congress or the federal government.

CHILD CUSTODY ORDERS: PREVENTION OF INTERNATIONAL CHILD ABDUCTION T
AB 2441, BATES, CH. 856
FAM 3048
Requires that child custody orders include a clear description of the custody and visitation rights of each party and a provision stating that violation of the order may result in criminal or civil penalties for the violating party. Requires a court—in cases in which the court becomes aware of facts that may indicate a risk of abduction of a child—to consider specified factors in determining the risk of abduction of the child and to determine whether conditions are needed to prevent the abduction of the child. Requires the court to consider imposing specified conditions to prevent the abduction of the child.

CHILD CUSTODY MEDIATION T
SB 174, KUEHL, CH. 1077
FAM 3188
Requires—in at least four volunteer courts that each have more than 1,000 family law filings and that currently utilize a nonconfidential child custody mediation process—that initial child custody mediation sessions be confidential, with an allowance for subsequent recommending mediation if con-

ducted by a different mediator. Requires the Judicial Council to determine the four volunteer courts. Makes implementation of these provisions contingent upon funding in the Budget Act.

CHILD CUSTODY INVESTIGATIONS: CHILD SEXUAL ABUSE T
SB 1704, ORTIZ, CH. 305
FAM 3118; W&I 827
Provides that in any contested proceeding involving child custody or visitation rights, if the court has appointed a child custody evaluator or if the court has referred the case for a full or partial court-connected evaluation, investigation, or assessment, and the court determines that there is a serious allegation of child sexual abuse, the court must require an evaluation, investigation, or assessment. Also requires the court to consider only specified evaluations, investigations, or assessments in determining custody or visitation rights when the court has determined that there is a serious allegation of child sexual abuse, except as specified.

CHILD SUPPORT ORDERS A,T
SB 97, KUEHL, CH. 539
FAM 155
Abrogates the holding in *Dupont v. Dupont* (2001) 88 Cal.App.4th 192 that a judgment in a child support action that creates an installment plan to pay off arrears converts the past-due amount to an installment judgment subject to interest only as the installments become due, and provides instead that interest on such a past-due amount continues to accrue at the appropriate rate despite the existence of the payment plan.

CHILD SUPPORT: ENFORCEMENT T
AB 3032, COMMITTEE ON JUDICIARY, CH. 927
FAM 3766, 4054, 4506, 7575, 17306, 17400, 17422, 17430, 17432, 17526, 17600, 17602, 17700, 17704, 17801; CCP 394; W&I 11476.2; PEN 11165.7
Authorizes local child support agencies (LCSAs) to record a notice of child support judgment. Requires an LCSA to complete an administrative review of alleged arrearages within a specified time period. Revises the provision governing the conduct of state hearings for parents who are dissatisfied with an LCSA’s resolution of a complaint. Makes additional technical changes regarding child support.

SPOUSAL SUPPORT: CRIMINAL PENALTIES T
SB 1399, ROMERO, CH. 410
PEN 270.6
Creates a misdemeanor offense for persons who have received notice of an order to pay spousal support and leave the state with the intent to willfully, without lawful excuse, omit to comply with the spousal support order.

FAMILY LAW: SPOUSAL SUPPORT AND PARENT LOCATOR SERVICE T
AB 3033, COMMITTEE ON JUDICIARY, CH. 759
FAM 3600, 17506
Eliminates from consideration all statutory criteria except those pertaining to domestic violence when the court issues a temporary order for spousal support. Provides that the Department of Child Support Services shall, upon implementation of the California Child Support Automation System, assume responsibility for the California Parent Locator Service and the Central Registry (currently operated by the Department of Justice).

SUPPORT: LACHES T
SB 1658, SOTO, CH. 304
FAM 4502
Permits application of the defense of laches in an action for child or spousal support only with respect to any portion of the judgment owed to the state.

ADOPTIONS: TERMINATION OF PARENTAL RIGHTS T
SB 1512, SCOTT, CH. 260
FAM 7666, 7669, 7807, 7901
Requires that notice of a proceeding to terminate parental rights relating to an adoption be given to all possible natural fathers at least 10 days before the stated time for appearance. Makes an order that dispenses with a father’s consent to adoption conclusive and binding on the father. Stays proceedings related to custody and support pending a final determination of whether a minor is free for adoption. Allows licensed clinical social workers and marriage and family therapists to conduct adoption investigations. Enacts provisions governing the jurisdiction of a court of this state in adoption proceedings in cases where another state may have jurisdiction in the matter, and enacts provisions pertaining to venue in adoption matters.

ADOPTION: NONRESIDENT PETITIONERS T
AB 746, LA SUER, CH. 1112
FAM 8714, 8715, 8802, 8807
Provides that if the petitioner is not a resident of this state, he or she may file a petition for an agency adoption or an independent adoption in the county in which the birth parent or parents resided when the relinquishment of parental rights for the purpose of adoption was signed, when the adoption placement agreement was signed, or when the petition was signed, as applicable. Requires that a home-study report conducted by a licensed adoption agency or another authorized agency in the state where a nonresident petitioner lives be reviewed and endorsed by the state Department of Social Services, as specified.

DISSOLUTION OF MARRIAGE: JOINT TAX RETURN REVISIONS T

AB 2979, COMMITTEE ON REVENUE AND TAXATION, CH. 374

FAM 2628; R&T 19006

Alters the limits on the court's authority to revise income tax liabilities in marital dissolution cases to preclude revision when the gross income of the couple exceeds \$150,000 or when the liability of the relieved spouse exceeds \$7,500.

COMMUNITY PROPERTY: REAL PROPERTY TRANSACTIONS A,T

SB 1936, BURTON, CH. 310
FAM 721

Subjects a husband or wife who enters into any real property transaction with the other to the general rules governing fiduciary relationships that concern transactions in the administering of a trust.

JUDICIAL OFFICERS

JUDGES' RETIREMENT A,T

AB 2879, STROM-MARTIN, CH. 661
GOV 68543.5, 75071, 75072, 75074

Allows a judge to designate a beneficiary other than his or her spouse to receive the non-community property portion of his or her retirement benefit upon the judge's death. Conforms the compensation of a retired judge assigned to an appellate court with that of a retired judge assigned to a trial court. Provides a return of undistributed employee contributions and interest to the estate in the event of the deaths of both the judge and the spousal survivor.

JUDGES: ARBITRATION T

AB 2504, JACKSON, CH. 1094
CIV 170.1, 1281.9

Among other things, requires the disqualification of a judge who has a current arrangement concerning prospective employment or other compensated service as a dispute resolution neutral or who is participating in or, within the last two years, has participated in discussions regarding such prospective employment or other service, when either of the following applies: (a) the arrangement is, or the discussion was, with a party to the proceeding; or (b) the matter before the judge includes issues related to the enforcement of an agreement either to submit a dispute to alternative dispute resolution or to accept the appointment or use of a dispute resolution neutral.

PUBLIC SAFETY OFFICIALS HOME PROTECTION ACT T

AB 2238, DICKERSON, CH. 621
GOV 6254.21; PEN 146E

Prohibits a person from knowingly posting the home address or telephone number of any elected or appointed official or

the official's residing spouse or child on the Internet. Creates an advisory task force, chaired by the Attorney General, to determine how to protect a public safety official's home information and to prepare a report to the Legislature no later than September 1, 2003.

JURIES

JURY DUTY: MILEAGE REIMBURSEMENT T

AB 2925, MIGDEN, CH. 144
CCP 215

Eliminates mileage reimbursement to trial court jurors for the first day of service, and increases the reimbursement rate beginning on the second day of service from 15 cents per mile to 34 cents per mile.

JUVENILE DELINQUENCY

EXPEDITED YOUTH ACCOUNTABILITY PROGRAM T

AB 2154, ROBERT PACHECO, CH. 110
W&I 660.5

Lifts the sunset for the Expedited Youth Accountability Program in Los Angeles County and in any other county where the board of supervisors approved the program.

JUVENILE DEPENDENCY

DEPENDENCY PROCEEDINGS: NOTICE T

SB 1956, POLANCO, CH. 416
W&I 290-298, 311, 312, 335-337, 360, 362.3, 366.23, 387

Reorganizes and revises provisions relating to notice in juvenile dependency proceedings. States the intent of the Legislature that this bill will reduce local court costs by clarifying and consolidating existing requirements in order to reduce the number of continuances that need to be granted.

SURROGATE PARENTS: COURT APPOINTMENT FOR WARDS AND DEPENDENTS T

SB 1677, ALPERT, CH. 785
GOV 7579.5; W&I 358.1, 366, 366.1

Requires that social studies and evaluations prepared by child welfare workers for dependent children include a factual discussion of whether the rights of the parent or guardian to make educational decisions should be limited and whether a responsible adult is available to make educational decisions. Requires the court to make factual determinations on the issue of educational decision-making

authority and to appoint a responsible adult to make those decisions if the rights of the parent are limited. Requires a local educational agency (LEA) to appoint a surrogate parent for a dependent child where the court has specifically limited the rights of the parent or guardian only if the court has not appointed a responsible adult to represent the child's interests. Allows an LEA to terminate a surrogate parent appointment if the person is not performing properly, and requires termination when the person has a conflict of interest with the child. Requires the Department of Education to develop a model training program for surrogate parents. Recommends that the Judicial Council adopt rules and standards to implement the court-related provisions.

JUVENILE DEPENDENCY: DENIAL OF REUNIFICATION SERVICES; FOSTER CARE T

AB 1694, COMMITTEE ON HUMAN SERVICES, CH. 918
W&I 309, 361.5; H&S 1521.5

Provides that denial of reunification services for parents or guardians in juvenile dependency cases on the basis of a history of drug or alcohol abuse and resistance to treatment must involve court-ordered treatment during a three-year period prior to the filing of the petition. Adds a reference to nonrelative "extended family member" caregivers in numerous foster-care-related sections where it was omitted. Extends foster care training.

PARENTAL AUTHORITY: EDUCATIONAL DECISIONS: COURT APPOINTMENT T

AB 886, SIMITIAN AND DAUCHER, CH. 180
W&I 361, 726; PRO 2662

Requires the court to appoint a responsible adult to make educational decisions for a minor whose parent's or guardian's rights to make those decisions have been specifically limited by the court. Establishes the circumstances under which that individual's decision-making authority ceases, and provides that he or she must not have a conflict of interest in representing the child on educational matters.

CHILD WELFARE SERVICES: CASELOAD STANDARDS T

AB 364, ARONER, CH. 635

W&I 10609.7
Requires the Human Resources Workgroup of the Child Welfare Services Stakeholders' Group to include in its next planned report a discussion of the strategies required to establish and implement minimum caseload standards for all child welfare service areas.

LEGAL PROFESSION

STATE BAR T

SB 1897, KUEHL, CH. 415
B&P 6016, 6019, 6021, 6031.5, 6065, 6079.5, 6145
URGENCY, EFFECTIVE SEPTEMBER 9, 2002

Makes changes to the State Bar Act relating to the internal structure and operations of the bar. Provides, until January 1, 2004, that an unsuccessful applicant may inspect, within four months after the results of the examination have been declared, those examination papers that are in the actual, physical possession of the examining committee.

UNAUTHORIZED PRACTICE OF LAW: PENALTIES T

SB 1459, ROMERO, CH. 394
B&P 6126

Increases penalties for the unauthorized practice of law, as specified.

LEGAL DOCUMENT ASSISTANTS T

AB 1698, COMMITTEE ON JUDICIARY, CH. 1018
B&P 6400

Removes the sunset on the existing legal document assistant (LDA) registration program, and increases consumer protections for users of these services. In addition to technical and clarifying changes, this bill requires LDAs to make specific disclosures to prospective clients regarding the scope of their services; places limits on the content of LDA advertising; and increases the amount of the bond for firms that employ more than four LDAs.

ATTORNEY WORK PRODUCT: EXCEPTIONS FOR CRIMINAL ACTIVITY A,T

AB 2055, ROBERT PACHECO, CH. 1059
CCP 2018; PEN 803, 1524

URGENCY, EFFECTIVE SEPTEMBER 29, 2002
Eliminates the protection of work product privilege in existing law when an attorney is suspected of knowingly participating in a crime or fraud in any official investigation, proceeding, or action brought by the district attorney if the services of the lawyer were sought or obtained to enable or aid anyone to commit or plan to commit a crime or fraud. Provides that nothing within the existing provisions concerning the special master procedure and the work product protections is intended to limit an attorney's ability to request an in camera hearing, as approved in *People v. Superior Court (Laff)* (2001) 25 Cal.4th 703.

MENTAL HEALTH

MENTAL HEALTH: INVOLUNTARY TREATMENT T

AB 1421, THOMSON, CH. 1017 W&I 5345 ET SEQ.

Creates a new involuntary outpatient treatment program for any person who is suffering from a mental disorder and meets certain criteria. Specifies requirements for the petition alleging the necessity of treatment, rights of the person who is the subject of the petition, and court hearing procedures. Provides for settlement agreements as an alternative to the hearing process. Provides that the program will operate in counties that choose to provide the mental health services specified in the bill. Requires the director of the outpatient treatment program to provide a written progress report to the court every 60 days. Provides to the person subject to the commitment the right to a court hearing, as well as the right to file a petition for a writ of habeas corpus, during each 60-day period in order to determine whether the person continues to meet the commitment criteria. Sunsets on January 1, 2008.

PROBATE

PROBATE: WILL CONTESTS T

SB 1878, POOCHIGIAN, CH. 150

PRO 21300, 21305, 21320

Revises and recasts the provisions governing the enforcement of no-contest clauses in instruments. Among other things, defines “direct contest” and “indirect contest” for purposes of those provisions and expands the types of proceedings that do not, as a matter of public policy, violate a no-contest clause.

PROBATE: CONSTRUCTION OF INSTRUMENTS T

AB 1784, HARMAN, CH. 138 VARIOUS PRO SECTIONS

Makes revisions to the rules for interpretation of instruments where the intention of the transferor is not indicated by the instrument. Among other changes, clarifies the appropriate use of extrinsic evidence to determine the intent of the transferor, changes terminology, limits the application of certain rules to specified transfers, conforms certain rules to the Uniform Probate Code, adds new provisions regarding securities, repeals certain rules, eliminates redundant provisions, and makes technical and conforming amendments.

PROBATE: GUARDIANSHIPS T

AB 1938, ARONER, CH. 1118 FAM 210, 3041, 8804; PRO 1000, 1601, 1610; CCP 391.7

Applies the vexatious litigant provisions of the Code of Civil Procedure to Family Code and Probate Code actions. Creates standards for awarding custody to a nonparent over the objection of a parent. Deletes the requirement that a guardianship is no longer necessary as grounds for termination. Provides that the “mandatory return to parental custody” statute for children involved in failed adoptions is subject to these custodial standards.

GUARDIANSHIP REVIEWS T

AB 3036, CORBETT, CH. 1115 PRO 1513.2

Requires the court, to the extent resources are available, to implement procedures to ensure that every guardian annually completes and returns a status report. Provides for the confidentiality of the report. Requires the clerk of the court to mail a notice of the required filing one month before the filing is due and to include a blank status report form with the notice.

Requires the court to attempt to obtain the information required in the report from the guardian or from other sources if the status report is not completed and returned or if the court finds that further information is needed. Also requires the court to order the guardian to make himself or herself available to the investigator for the purpose of investigating the guardianship, or to show cause why the guardian should not be removed, if the court is unable to obtain the information required in the report within 30 days after the status report is due.

Requires the Judicial Council to develop a standard status report form and to report to the Legislature no later than December 31, 2004, regarding the costs and benefits of utilizing the annual status reports.

WILLS AND TRUSTS: PROHIBITED TRANSFERREES: EXCEPTIONS T

SB 1575, SHER, CH. 412 PRO 21351

URGENCY, EFFECTIVE SEPTEMBER 9, 2002

Defines the term “co-habitant” and includes domestic partners in the categories of persons excepted from the prohibition against receiving a donative transfer under a will or trust instrument. Requires the independent attorney making a review of an instrument to be excepted from the prohibited transfer provisions to attempt to determine whether the intended transfer is the result of fraud, menace, duress, or undue influence, and revises the certificate the attorney is required to deliver to document his or her

review. Deletes the exclusion of evidence of specified interested parties from a court determination of whether a transfer was a product of fraud, menace, duress, or undue influence. Revises the definition of “related by blood or marriage” for the purpose of the exception provisions to include both (1) persons within the fifth, rather than seventh, degree and (2) heirs of the transferor. Creates new exceptions for any transfer that does not exceed \$3,000 and for any transfer made by an instrument executed by a nonresident of California that was not signed in California.

INTESTATE SUCCESSION RIGHTS FOR DOMESTIC PARTNERS T

AB 2216, KEELEY, CH. 447 PRO 6401, 6402

Provides domestic partners with the same rights to inherit property under the intestate succession laws as those provided to married couples.

PUBLIC GUARDIANS: CRIMINAL HISTORY INFORMATION T

AB 1957, ROBERT PACHECO, CH. 644

PRO 2920.5

Until January 1, 2007, permits a public guardian or a county conservatorship investigator, upon a referral from a court or an adult protective services agency, to submit to the Department of Justice fingerprints and related information on a person being considered as a conservator or potential conservator. Requires the Legislative Analyst’s Office to make a specified sampling of requested county criminal history information on potential conservators and to make recommendations regarding the utility of this information as part of its 2006–2007 fiscal year budget analysis.

TRAFFIC

VEHICLES: SPEED CONTESTS AND RECKLESS DRIVING T

SB 1489, PERATA, CH. 411 VEH 23109.2

URGENCY, EFFECTIVE SEPTEMBER 9, 2002

Allows for the impoundment of vehicles used in reckless driving or in “exhibition of speed” violations. Sunsets on January 1, 2007.

VEHICLES: VIOLATIONS T

SB 1729, MCPHERSON, CH. 177

VEH 21104

Allows an ordinance or a resolution prohibiting the use of a particular highway by certain vehicles, enacted by a local authority, to impose a fine or a penalty of up to \$100 for a violation.

VEHICLES: NOISE CITATIONS T

SB 1420, JOHANNESSEN, CH. 569

VEH 27150.1, 27150.2, 27150.7

Allows the court to dismiss a prosecution for violating vehicular noise level restrictions if, among other things, it finds that a certificate of compliance has been issued by a smog check station providing referee functions. Also allows the court to revoke a certificate of compliance if evidence is presented that the vehicle exhaust system cited is not the system identified in the certificate of compliance or that the system otherwise does not comply with existing standards.

PUBLIC SAFETY T

SB 1852, COMMITTEE ON PUBLIC SAFETY, CH. 545

VEH 1808, 13352, 23562; PEN 1000

Among other things, adds possession of marijuana while driving a motor vehicle to the list of violations that are eligible for deferred entry of judgment. Requires the Department of Motor Vehicles to disclose to courts and law enforcement agencies, for the purpose of imposing penalties, all convictions for felony gross vehicular manslaughter while intoxicated. Specifies that for the purpose of determining the length of a license suspension, a conviction in any other state for any offense that would have been, if committed in this state, vehicular manslaughter is to be considered a conviction under California law.

BENCH WARRANTS: ASSESSMENTS T

SB 1754, MCPHERSON, CH. 148

PEN 853.7A; VEH 40508.5

Raises from \$7 to \$15 the amount that a county may require a court in that county to assess upon every person who fails to appear in court or fails to comply with a valid court order.

TOLLS: EVASION T

AB 2299, BATES, CH. 184

VEH 40254

Provides that if accurate information concerning the identity and address of the registered owner of a vehicle that has evaded tolls is not available to the processing agency within 21 days of the violation, the processing agency shall have an additional 45 calendar days to obtain such information and forward the notice of toll evasion violation. When the registered owner is a repeat violator (as specified), requires the processing agency to forward the notice of toll evasion violation within 90 calendar days of the violation. Requires the processing agency to use its best efforts to obtain accurate information concerning the registered owner for these purposes.

VESSELS: OPERATION: VIOLATIONS T

AB 2005, NAKANO, CH. 383

H&N 655.7, 658.3, 668.1

Prohibits any person from operating a personal watercraft at any time between sunset and sunrise. Exempts any persons operating an underwater maneuvering device (dive board) intended for use by a submerged swimmer from the requirement of wearing a Coast Guard–approved flotation device. Expands the list of activities that would require the successful completion of a boating safety course approved by the Department of Boating and Waterways.

VEHICLES: ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES T

SB 1918, TORLAKSON, CH. 979

VEH 313, 407.5, 467, 21280

Establishes regulations regarding the use of electric personal assistive mobility devices beginning March 1, 2003, and sunseting on January 1, 2008.

NONMOTORIZED SCOOTER OR SKATEBOARD: HELMET REQUIREMENTS T

SB 1924, O’CONNELL, CH. 475

VEH 21212

Requires that any person under 18 wear a helmet while operating a nonmotorized scooter or skateboard, wearing in-line or roller skates, or riding as a passenger on a nonmotorized scooter or skateboard.

MISCELLANEOUS

VITAL RECORDS: CERTIFICATE OF DEATH: MASS-FATALITIES INCIDENTS T

AB 1872, CANCIAMILLA AND NATION, CH. 717

H&S 103450, 103451, 103466, 103490

Makes changes to court procedures relating to death certificates in the event of mass-fatalities incidents.

ACCOUNTANTS: REPORTING OF CONVICTIONS T

AB 270, CORREA, CH. 231

B&P 5063.1

Requires courts to report to the California Board of Accountancy the entry of any conviction or judgment, as described, against a licensee within 10 days and to provide a copy of the conviction or judgment to the board along with any orders or opinions of the court.

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COURT NEWS

SPECIAL EDITION

is published annually by the
Judicial Council of California,
Administrative Office of the
Courts. Editorial and
circulation offices: 455 Golden
Gate Avenue, San Francisco,
CA 94102-3688
415-865-7740, e-mail:
pubinfo@courtinfo.ca.gov.

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455 Golden Gate Avenue
San Francisco, CA 94102-3688

SPECIAL EDITION

2002 Legislative Summary

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Permit No. 925